

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN

TRIVEL, INC.

Plaintiff,

vs.

TECH SMART USA, INC.

and

VECTORTEK, LLC

Defendants.

Case No.: 25-2-25-cv-10190-SKD-CI

Honorable Susan K. DeClerq

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DEFENDANT TECH SMART INC.'S AFFIRMATIVE DEFENSES
IN RESPONSE TO COMPLAINT

NOW COMES Defendant Tech Smart Inc., by and through its attorneys, Morgan Starr Sackin PLLC, and for its Affirmative Defenses in response to the above-styled Complaint, state as follows:

1. Plaintiff's Complaint fails, in whole or in part, to state a claim upon which relief may be granted.

2. Plaintiff's claims are barred, in whole or in part, by the statute of frauds, including, but not limited to, Plaintiff's implied allegations that certain agreements were oral such as relating to storage fees.

3. Plaintiff's claims may be barred due to release, payment, accord and satisfaction, discharge and/or actual or constructive waiver of rights.

4. Plaintiff failed to mitigate or minimize its alleged damages.

5. Plaintiff's claims are barred by the parol evidence rule because Plaintiff seeks to enforce alleged agreements that deviate from the terms of the Distribution Agreement, including, but not limited, relating to storage fees.

6. Plaintiff's claims are barred by the doctrines of waiver, estoppel or laches due to, among other things, Plaintiff's wrongful actions in its dealings with Defendant Tech Smart USA Inc.

7. Plaintiff lacks authority to sue Defendant Tech Smart USA Inc. because, among other things, the ebikes at issue were not subject to the Distribution Agreement.

8. Defendants hereby give notice of their intent to rely upon such other and further affirmative and/or special defenses as may appear applicable through discovery or other investigation and hereby reserves the right to amend their pleadings, including adding or dismissing any affirmative defense stated based on facts or information obtained during discovery or investigation.

WHEREFORE, Defendant Tech Smart USA, Inc. respectfully request this Honorable Court dismiss Plaintiff's Complaint in its entirety, award Defendant legal fees and costs wrongfully incurred, and grant further relief this Court deems fair and equitable.

Respectfully submitted,

MORGAN STARR SACKIN PLLC

Dated: April 3, 2025

/s/ Marc Sackin
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CERTIFICATE OF SERVICE

I, Marc Sackin, certify that on April 3, 2025, I electronically filed the foregoing document(s) and that they are available for viewing and downloading from the Court's CM/ECF system, and that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

/s/ Marc Sackin

Marc Sackin

